8. In section 113, sub-section (*1*), of the said Act, after the word "weather-boards" the word "shop-boards" shall be inserted. Insertion of a word in section 113 sub-section (*1*).

9. To section 122 of the said Act the following sub-section shall be added, namely :— Addition of a sub-section to section 122.

[*Supra.*]

10. In section 174, sub-section (*1*), of the said Act, the word "which", in the second place where it occurs, is repealed. Repeal of a word in section 174, sub-section (*1*).

THE BOMBAY COURT OF WARDS ACT, 1905.

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BOMBAY ACT No. I OF 1905.[1]

[*3rd June, 1905.*]

An Act to establish a Court of Wards in the Bombay Presidency.

WHEREAS it is expedient to establish a Court of Wards in the Bombay Presidency; Preamble.

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Court of Wards Act, 1905. Short title.

(*2*) It shall extend to the whole of the Bombay Presidency, except the City of Bombay and Aden. Extent.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Government ward" shall mean any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act;

(*b*) "land-holder" shall mean,

(*i*) in the case of minors and persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs, a holder as defined in the [3]Bombay Land-Revenue Code, 1879; and

Bom. Act V of 1879.

[4][(*ii*) in all other cases, a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malek and a khot, and any person not hereinbefore specified who is interested in land and whom the Governor in Council has declared on account of the extent and value of his interest to be a land-holder for the purposes of this Act]:

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[1] For Statement of Objects and Reasons *see* Bombay Government Gazette, 1904, Pt. VII, p. 83; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 14, and for Proceedings in Council, *see ibid*, 1904, Pt. VII, pp. 144, 208; *ibid*, 1905, Pt. VII, p. 42.

[2] *See* now the Government of India Act, 1915 (5 and 6 Geo. 5, Ch. 61).

[3] Vol. II of this Code.

[4] This paragraph was substituted by s. 2 (*a*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

provided that no person who permanently resides, or carries on business, or personally works for gain, in the City of Bombay shall be deemed or declared to be a land-holder for the purposes of this Act ;

[1][(*bb*) "pension-holder" shall mean a person lawfully entitled to the whole or a part of a pension or cash-allowance granted or continued by Government on political considerations or of a hereditary pension or cash allowance ;]

(*c*) "District Court" shall include the Court of an Assistant Judge invested, under section 19 of the [2] Bombay Civil Courts Act, 1869, with all the powers of a District Judge ; and Bom. A XIV of 1869.

(*d*) "minor" shall mean a person who, under the provisions of the [3] Indian Majority Act, 1875, is to be deemed not to have attained his majority. IX of 1

Commissioner to be Court of Wards.

3. Subject to the provisions of section 12, the Commissioner shall be the Court of Wards for the limits of his division :

Provided that the Governor in Council may, if he thinks fit, by notification in the Bombay Government Gazette,

(*a*) appoint a special officer to be the Court of Wards for a division in lieu of the Commissioner ; or

(*b*) constitute a Board consisting of the Commissioner and any other officer or officers to be the Court of Wards for a division ; or

(*c*) [4] appoint any other officer or officers to be a Court of Wards for any part of the Bombay Presidency, and direct that such part shall thereupon be excluded from the jurisdiction of the Court of Wards of any division in which it lies wholly or partly.

Assumption of superintendence by Court of Wards of property of disqualified

4. (*1*) The Court of Wards may, with the previous sanction of the Governor in Council, assume the superintendence of the property of any land-holder holding land [5][or of any pension-holder receiving a pension] within the local limits of its jurisdiction who is disqualified to manage his own property :

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[1] This clause was inserted by s. 2 (*b*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] Vol. I of this Code.

[3] General Acts, Vol. II.

[4] For notification appointing the Talukdari Settlement officer to be a Court of Wards for the whole of the area to which the Gujarat Talukdars' Act, 1888 (Bom. Act 6 of 1888), extends, and directing that that area shall be excluded from the jurisdiction of the Commissioner, Northern Division, as Court of Wards of that Division, *see* Bombay Government Gazette, 1908, Pt. I, p. 1474

[5] These words were inserted by s. 3 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

Provided that in the case of a land-holder [1] [or pension-holder] disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5 such assumption shall be sanctioned only where the Governor in Council is of opinion that it is expedient in the public interests to preserve the property of such land-holder [1] [or pension-holder] for the benefit of his family, and that the said property is of such value that economical management by the Court of Wards is practicable. land-holder or pension-holder.

(*2*) No sanction given under sub-section (*1*) shall be called in question in any Court, except in the case of a land-holder [1] [or pension-holder] disqualified under section 5, sub-section (*1*), clause (*a*), where proceedings are instituted within three months of the giving of the sanction.

5. (*1*) The following land-holders [2] [or pension-holders] shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely:— Land-holders or pension-holders to be deemed disqualified in certain cases.

(*a*) minors;

(*b*) females declared by the District Court, on the application of the Collector and after such judicial inquiry as it thinks necessary, to be unfitted to manage their own property;

(*c*) persons declared by the District Court, on the like application and after the like inquiry, to be incapable of managing, or unfitted to manage, their own property owing to

(*i*) any physical or mental defect or infirmity, or

(*ii*) such habits as cause, or are likely to cause, injury to their property or to the well-being of their inferior holders; and

(*d*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs.

(*2*) No appeal shall lie from any declaration under clause (*b*) or (*c*) of sub-section (*1*).

6. Where any officer of Government is appointed or declared to be guardian of the property, or of the person and property, of a minor under section 7, sub-section (*1*), of the [3] Guardians and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, with the previous sanction of the Governor in Council, assume the superintendence of the property, or of the person and property, of such minor. Assumption of superintendence where Government officer appointed guardian.

VIII of 1890.

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[1] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] These words were inserted by s. 4 (*2*), *ibid.*

[3] General Acts, Vol. IV.

Superintendence not to be assumed where guardian appointed except with consent of District Court.

7. The Court of Wards shall not assume the superintendence of the property, or of the person and property, of any minor of whose property, or of whose person and property,

(*a*) a guardian has been appointed by will or other instrument, or

(*b*) a guardian other than an officer of Government has been appointed or declared under section 7, sub-section (*1*), of the [1] Guardians and Wards Act, 1890, VIII of 1890.

except with the previous consent of the District Court.

Superintendence not to be assumed under section 4 in case of undivided Hindu family unless all co-sharers disqualified; but may be assumed in other cases.

8. (*1*) The Court of Wards shall not assume under section 4, sub-section (*1*), the superintendence of the property of any family which is undivided according to Hindu law, except where all the co-sharers are disqualified under sub-section (*1*) of section 5 [2][or where all the co-sharers other than those who are disqualified under sub-section (*1*) of section 5 agree to the Court of Wards assuming such superintendence].

(*2*) Where two or more land-holders [3][or pension-holders] are co-sharers otherwise than as co-sharers in a family which is undivided according to Hindu law and one of such co-sharers is disqualified under sub-section (*1*) of section 5, the Court of Wards [4][may assume the superintendence of the undivided share of such disqualified land-holder [5][or pension-holder] or] may obtain partition on behalf of the disqualified land-holder [5][or pension-holder] by suit or otherwise, and assume the superintendence of the property allotted to such land-holder [5][or pension-holder] in the partition.

Assumption of superintendence by Court of Wards on application of land-holder or pension-holder.

9. (*1*) Any land-holder [5][or pension-holder] may apply in writing to the Governor in Council to have his property placed under the superintendence of the Court of Wards, and the Governor in Council may on such application, where he is of opinion that it is expedient in the public interests to preserve the property of such land-holder [5][or pension-holder] for the benefit of his family and that the said property is of such value that economical management by the Court of Wards is practicable, order the Court of Wards to assume the superintendence of the property.

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[1] General Acts, Vol. IV.

[2] These words were inserted by s. 5 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[3] These words were inserted by s. 4 (*2*) *ibid.*

[4] These words were inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

[5] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[1] [(*1A*) Any co-sharer of property, other than a co-sharer in a family undivided according to Hindu law, may make an application under sub-section (*1*) in respect of his own share in such property.]

(*2*) [2] [In every case where property is held by co-sharers, whether as co-shares in a family undivided according to Hindu law or otherwise] an application signed by co-shafers holding an aggregate interest of not less than three-fourths of the whole property shall, for the purposes of sub-section (*1*), be deemed to be an application by a land-holder [3][or pension-holder] in respect of [4][the whole property] :

Provided, *firstly*, that no order shall be made [5][on any such application] under sub-section (*1*) where it appears to the Governor in Council doubtful whether the aggregate interest of the co-sharers signing [6][the] application amounts to not less than three-fourths of the whole property ; and

Provided, *secondly*, that nothing in this Act shall be deemed to prevent any co-sharer other than those signing any such application from obtaining partition of his share, whether by suit or otherwise.

(*3*) An order made under sub-section (*1*) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no such order shall be called in question in any Court.

Provisions for temporary custody of heirs and protection of property in certain cases.

10. (*1*) Whenever the Collector receives information that any land-holder [3][or pension-holder] is, or should be, disqualified under sub-section (*1*) of section 5, or that any land-holder [3][or pension-holder] has died and that his heir is, or should be, so disqualified, he may apply to the District Court and the District Court may authorize the Court of Wards to

(*a*) take such steps and make such order for the temporary custody and protection of the property as the Court of Wards thinks fit ; and

(*b*) where the land-holder [3][or pension-holder] or heir is a minor, direct that the person (if any) having the custody of the minor shall

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[1] This sub-section was inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

[2] These words were substituted for the words "Where property is held by co-sharers in undivided shares" by *ibid.*

[3] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[4] These words were substituted for the words "such property" by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

[5] These words were inserted by *ibid.*

[6] This word was substituted for the words "any such" by *ibid.*

produce him or cause him to be produced at such place and time and before such person as the Court of Wards may appoint, and make such order for the temporary custody and protection of the minor as the Court of Wards thinks fit:

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(*2*) Whenever the Court of Wards is authorized to proceed under sub-section (*1*) it shall forthwith report its action for the information of the Governor in Council.

(*3*) No appeal shall lie from any order of authorization under sub-section (*1*), except in the case of a land-holder [1][or pension-holder] disqualified under section 5, sub-section (*1*), clause (*a*).

Assumption of superintendence by Court of Wards of person of disqualified land-holder or pension-holder in certain cases.

11. Where the Court of Wards assumes the superintendence of the property of any land-holder [or pension-holder] disqualified under clause (*a*) or (*d*) of section 5, sub-section (*1*), it may, with the previous sanction of the Governor in Council, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married and is in the custody of her husband.

Assumption of superintendence by Court of Wards where land-holder or pension-holder holds land in more than one jurisdiction.

12. Where a disqualified land-holder [1][or pension-holder] or a land-holder [1][or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*), holds land [2][or receives a pension] within the territorial jurisdiction of two or more Courts of Wards such one only of the Courts of Wards as the Governor in Council may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder [1][or pension-holder.]

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

13. (*1*) Whenever the Court of Wards assumes the superintendence of the property of any land-holder [1][or pension-holder] under this Act, the fact of such assumption, and the date on which it was sanctioned by the Governor in Council, shall be notified in the Bombay Government Gazette and in such

[1] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] These words were inserted by s. 4 (*3*) of *ibid.*

other manner as the Governor in Council may, by general or special order, direct.

(*2*) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such land-holder [1] [or pension-holder], whether the existence of any such property is known to the Court of Wards or not, shall be deemed to be under the superintendence of the Court of Wards.

(*3*) Any property which the Government ward may inherit or acquire by succession subsequently to the date of such sanction shall also be deemed to be under the superintendence of the Court of Wards.

(*4*) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the Government ward may acquire otherwise than by inheritance or succession subsequently to the date of such notification.

Publication of notice to claimants against Government ward.

14. (*1*) On the issue of a notification under section 13, sub-section (*1*), the Court of Wards shall publish in the Bombay Government Gazette, and in such other manner as the Governor in Council may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his property to submit the same in writing to it within six months from the date of the publication of the notice.

(*2*) Where the Court of Wards is satisfied that any claimant was unable to comply with the notice published under sub-section (*1*), it may allow his claim lobe submitted at any time after the date of the expiry of the period fixed therein ; but any such claim shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of such period until submission.

(*3*) Every claim against the Government ward or his property (other than a claim on the part of Government) not submitted to the Court of Wards in compliance with the notice published under sub-section (*1*), or allowed to be submitted under sub-section (*2*), shall, save in the cases provided for by section 18, sub-section (*2*), clause (*c*), and by sections 7 and 13 of the [2] Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence or afterwards, to have been duly discharged, unless, in any suit or proceeding instituted by the claimant, or by any person claiming under him, in respect of any such claim,

[1] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] *See* now the Indian Limitation Act, 1908 (9 of 1908), General Acts, Vol. VI.

it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (*1*).

Power to require claimants to furnish full particulars and documents.

15. (*1*) The Court of Wards may by written order require that any claimant submitting his claim shall, within such reasonable time as it may prescribe in such order, furnish full particulars thereof, and produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document:

Provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Court of Wards, a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and statement of the sum recoverable thereunder, as the case may be; and where the claim is pending adjudication in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint, or a true copy of the reference to arbitration, as the case may be.

(*2*) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(*3*) Where any document, which is in the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (*1*), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the superintendence or afterwards, in any suit bought by such claimant, or by any person claiming under him, in respect of any claim to which such document relates, unless it is proved to the satisfaction of the Court that he was unable to produce such document as required by such order.

Investigation and decision of claims.

16. (*1*) On receipt of all claims submitted in compliance with the provisions of sections 14 and 15, the Court of Wards shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (*3*), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(*2*) Where the Court of Wards has admitted any claim under sub-section (*1*), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and if such proposal, or any modification of it, is accepted by the claimant, and his

acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not below the rank of an Assistant or Deputy Collector whom the Governor in Council may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant:

Provided that if, when the superintendence of the property by the Court of Wards is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (*1*) as the unsatisfied portion bears to the reduced claim.

(*3*) Subject to the provisions of sub-section (*2*), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been duly submitted to the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Execution of decrees to be stayed till certificate filed.

17. (*1*) On the publication of a notice under section 14, sub-section (*1*), no proceeding in execution of any decree against the Government ward or his property shall be instituted or continued until the decree-holder files a certificate from the Court of Wards that the decree-claim has been duly submitted, or until the expiration of one month from the date of receipt by the Court of Wards of a written application for such certificate, accompanied by a certified copy of a decree.

(*2*) Any person holding a decree against the Government ward or his property shall be entitled to receive from the Court of Wards, free of cost, the certificate required by sub-section (*1*).

(*3*) In computing the period of limitation prescribed by the [1] Indian Limitation Act, 1877, or by section 230 of the [2] Code of Civil Procedure, for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred by reason of the claim not having been duly submitted, the time from the date of the notice published under section 14, sub-section (*1*) or of the decree if it was passed subsequently to the publication of the notice, to the date of due submission shall be excluded.

Report to Government.

18. (*1*) When all claims have been investigated under section 16, the Court of Wards shall submit to the Governor in Council a schedule of the debts and liabilities of the Government ward, and the Governor in Council may, where the property appears to be involved beyond all hope of extrication, or for any other sufficient reason, by order published in the Bombay Government

[1] *See* now the Indian Limitation Act, 1908 (9 of 1908), General Acts, Vol. VI.

[2] *See* now the Code of Civil Procedure, 1908 (5 of 1908), General Acts, Vol. VI.

Gazette, direct that, on a date to be fixed by the order, the superintendence of the property, or of the person and property, of the Government ward by the Court of Wards shall be withdrawn.

(2) On the date so fixed

(*a*) the superintendence shall terminate;

(*b*) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property; and

(*c*) the claims referred to in section 14, sub-section (*3*), shall revive.

(*3*) In calculating the periods of limitation applicable to suits to recover and enforce claims revived under sub-section (*2*), clause (*c*), the time during which such superintendence has continued shall be excluded.

Delegation of powers by Court of Wards.

19. (*1*) With the general or special sanction of the Governor in Council, the Court of Wards may, from time to time, delegate all or any of its powers to the Collector of any district in which any part of the property of a Government ward is situated, or to any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(*2*) Subject to any general or special orders of the Governor in Council, the Court of Wards may exercise all or any of the powers conferred on it by this Act through the Collector of any district in which any part of the property of a Government ward is situated, or through any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and, subject to the like orders, any such Collector or Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue-officer subordinate to him not below the rank of a Mahalkari.

Appointment of manager by Court of Wards.

20. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Liabilities, etc., of managers appointed by Court of Wards.

21. (*1*) Every manager appointed by the Court of Wards shall—

(*a*) give such security, with such sureties (if any), as the Court of Wards thinks fit for the due discharge of the trusts of his office, and for the due account of all property and moneys which come into his control or possession by reason of his office;

(*b*) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence; and every such loss shall be recoverable from him and from his sureties (if any) as an arrear of land-revenue.

Managers and other servants to be deemed public servants.

(*2*) Every manager or other servant of the Court of Wards shall be deemed to be a "public servant" within the meaning of Chapter IX of the Indian Penal Code; and, in the definition of "legal remuneration" contained in section 161 of the said Code, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

XLV of 1860.

Power of Court of Wards to appoint guardians of certain Government wards.

22. (*1*) The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [2] Guardians and Wards Act, 1890.

VIII of 1890.

General powers of Court of Wards.

23. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards

(*a*) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Act, as the owner of the property, if it was not under the superintendence of the Court of Wards, might do for its proper care and management; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, residence and education of certain Government wards.

24. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, where he is a minor, in respect of his education.

Allowance for Government ward, his family and dependents.

25. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

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[1] General Acts, Vol. I.

[2] General Acts, Vol. IV.

Duties of Court of Wards or manager.

26. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Power of Court of Wards as to property of Government wards.

[1] [**27.** The Court of Wards may sell, exchange, mortgage, charge or let the property of a Government ward, and may do all such things as it may judge to be best for the benefit of the property and the advantage of the Government ward: Provided that—

(*a*) the previous sanction of the Governor in Council shall be required to any sale, exchange or mortgage of, or charge on, immoveable property and to any lease of such property for a term exceeding ten years, and

(*b*) where one-fourth of the immoveable property of a Government ward has been sold or exchanged no further sale or exchange shall be made.]

Power of Court of Wards to evict.

28. The Court of Wards may summarily evict in the manner specified in section 202 of the [2] Bombay Land-Revenue Code, 1879, any person occupying, or in possession of, any immoveable property under its superintendence, to the use and occupation of which he has ceased to be entitled under any of the provisions of that Code, or which he uses or occupies in contravention of any of the provisions of this Act. Bom. Act V of 1879.

Recovery of arrears of rent as arrears of land-revenue.

[3] [**29.** For the purpose of the recovery of rents, profits and other sums due in respect of property under the superintendence of the Court of Wards (whether such arrears become due before or after the assumption of such superintendence) the Court of Wards shall have all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government, including the power conferred by section 176 of the [2] Bombay Land-Revenue Code, 1879.] Bom. Act V of 1879.

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[1] This section was substituted by s. 6 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] Vol. II of this Code.

[3] This section was substituted by s. 7 of the Bombay Court of Wards (Amendment) Act 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

Property under superintendence not liable to sale for arrears.

30. No immoveable property under the superintendence of the Court of Wards shall be liable to sale on account of arrears of land-revenue :

Provided that all such arrears of land-revenue shall be the first charge upon the sale-proceeds of any such property which may be sold for any other cause than for arrears of land-revenue.

Notice of suit.

31. No suit relating to the person or property of any Government wards shall be brought in any Civil Court until the expiration of two months after notice in writing stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards ; and the plaint shall contain a statement that such notice has been so delivered or left :

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 13, sub-section (*1*).

Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.

32. Subject to the provisions of the second paragraph of section 440 of the [1] Code of Civil Procedure, in every suit brought by or against a Government ward, the manager of the Government ward's property, or, where there is no manager, the Court of Wards having the superintendence of the Government ward's property, shall be named as the next friend or guardian for the suit, as the case may be.

Payment of costs.

33. Where, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

34. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

35. No suit shall be brought, and no appeal in any suit shall be preferred, by any guardian or manager appointed by the Court of Wards on behalf of any Government ward unless it is authorised by an order in writing of the Court of Wards :

[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), General Acts, Vol. VI.

Provided that a manager may authorize a plaint or a memorandum of appeal to be filed in order to prevent a suit or appeal from being barred by the law of limitation, but the suit or appeal shall not afterwards be proceeded with except with the sanction of the Court of Wards.

Adjudication of civil disputes between two or more Government wards.

36. (*1*) Where any question arises as between two or more Government wards of such a nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the Civil Court with regard to such matter under section 527 of the [1] Code of Civil Procedure, to file in the Civil Court having jurisdiction a statement containing the point or points for determination.

(*2*) When such statement has been filed, the Court shall appoint a guardian for the suit for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(*3*) The Court may, if it thinks fit, amend the case so stated and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the [1] Code of Civil Procedure for the hearing and disposal of cases stated for opinion under that Chapter.

Disabilities of a Government ward.

37. (*1*) Except with the approval of the Court of Wards, a Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 38), or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

38. No will made by a Government ward shall be valid without the consent of the Governor in Council obtained, either previously or subsequently to the making of the will, on application made to him through the Court of Wards : Consent of Government necessary to wills made by Government wards.

Provided that consent shall not be withheld unless it appears to the Governor in Council that the will is contrary to the personal or special law applicable to the ward, or that it is likely to cause considerable pecuniary embarrassment to the property, or to lower considerably the influence or respectability of the family in public estimation.

39. Where, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the sanction of the Governor in Council, either retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants. Procedure when succession to Government ward's property is disputed.

40. (*1*) Where superintendence has been assumed in pursuance of an order under section 9, sub-section (*1*), the Court of Wards shall withdraw such superintendence as soon as, in the opinion of the Governor in Council, the property is free from embarrassment. Withdrawal of superintendence of Court of Wards.

(*2*) The Court of Wards may, with the sanction of the Governor in Council, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as, in the opinion of the District Court, certified to the Court of Wards,

(*a*) in the case of a person disqualified under clause (*a*) of sub-section (*1*) of section 5, he attains or has attained his majority ;

(*b*) in the case of a female disqualified under clause (*b*) of the same sub-section, she is fit to manage her own property ;

(*c*) in the case of a person disqualified under clause (*c*) of the same sub-section, he is fit to manage his own property ;

(*d*) in the case of a person disqualified under clause (*d*) of the same sub-section, he ceases to be of unsound mind and incapable of managing his affairs ; and

(*e*) where it was assumed under section (4) sub-section (*1*), in the case of a family which was undivided according to Hindu law, any co-sharer ceases to be disqualified under sub-section (*1*) of section 5 :

Provided, *firstly*, that

(*i*) where a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the sanction of the Governor in Council,

retain the said property under its superintendence until such debts and liabilities have been discharged ; and

(*ii*) in the case of land-holders [1] [or pension-holders], [2] [who are co-sharers in a family which is undivided according to Hindu law] where one or more of the proprietors of a property remain disqualified although another or others have ceased to be disqualified, the Court of Wards may, with the sanction of the Governor in Council, retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified [3] [from surplus income such portion as shall be proportionate to his interest in the estate] ;

Provided, *secondly*, that, where the Court of Wards withdraws its superintendence, such withdrawal shall not affect any contract entered into by the Court of Wards in the lawful exercise of its powers ; and

Provided, *thirdly*, that

(*a*) no person who has once been declared disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5, and

(*b*) except in the case of any co-sharer other than those signing an application described in section 9, sub-section (*2*), no land-holder [4] [or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*),

shall be competent, on the withdrawal of such superintendence, to transfer or create any charge on or interest in his property or any part thereof for a period beyond the term of his natural life, except with the previous sanction of the Collector.

(*3*) No appeal shall lie from any opinion certified under sub-section (*2*).

Appointment of guardian in certain cases.

41. (*1*) Where, in exercise of the power conferred by section 40, the Court of Wards decides to withdraw its superintendence from the person or property, or both, of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such withdrawal.

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[1] These words were inserted by s. 4 (*2*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[2] These words were substituted for the words " referred to in section 8, sub-section (*2*) " by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

[3] These words were substituted for the words "the surplus income accruing from his share of the estate " by *ibid.*

[4] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

VIII of 1890.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [1]Guardians and Wards Act, 1890; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

Withdrawal to be notified in Gazette.

42. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the Bombay Government Gazette and in such other manner as the Governor in Council may, by general or special order, direct.

Appeals.

43. (1) An appeal shall lie from every order, other than an order of the District Court, passed under this Act, whether original or on appeal,

(*a*) where the order is that of a Commissioner, or of any special or other officer appointed, or Board constituted, under the proviso to section 3, to the Governor in Council;

(*b*) where the order is that of a Collector, to the Commissioner, or where any such officer or Board has jurisdiction, to such officer or Board; and

(*c*) in all other cases, to the Collector:

[2][Provided that where any such officer or Board has been appointed to be Court of Wards and the order has been passed by any officer subordinate to such Court of Wards for the purposes of this Act, the Governor in Council may direct that appeals shall lie to such officer or Board.]

Bom. Act V of 1879.

(2) The provisions of sections 205 to 210, both inclusive, of the [3]Bombay Land-Revenue Code, 1879, shall apply to all such appeals.

Control of Governor in Council.

44. All orders or proceedings under this Act, other than orders or proceedings of the District Court, shall be subject to the supervision and control of the Governor in Council; and the Governor in Council may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Power to compel attendance of witnesses.

[4][**44A.** For the purposes of this Act, the Court of Wards may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.]

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[1] General Acts, Vol. IV.

[2] This proviso was added by s. 8 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

[3] Vol. II of this Code.

[4] This section was inserted by s. 9 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. Act 2 of 1913), Vol. V of this Code.

Bar of suits.

45. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act, or against the Court of Wards or any public servant or person duly appointed or authorized under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder :

Provided, *firstly*, that any person evicted under section 28 may sue for restitution ; and

Provided, *secondly*, that any tenant from whom an arrear of rent has been recovered under section 29 may sue for recovery of the amount, or any part thereof, so recovered.

Power of Governor in Council to make rules.

46. (*1*) The Governor in Council may, by notification published in the Bombay Government Gazette, make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;

(*b*) regulate the form, conditions and amount of security, and the number of sureties (if any), to be given by managers ;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Governor in Council ;

(*d*) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered to the Court of Wards and by the Court of Wards to the Governor in Council ;

(*e*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of the Court of Wards ;

(*g*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ;

(*h*) prescribe the mode in which any expenses incurred by the Court of Wards or the Collector under any power conferred by this Act may be recovered ; and

(*i*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

BOMBAY ACT No. II OF 1905. [1]

[*28th June, 1905.*]

An Act further to amend the [2] Gujarat Taluqdars' Act, 1888.

WHEREAS it is expedient further to amend the [2] Gujarat Taluqdars' Act, Bom. Act VI of 1888. 1888, in manner hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [3] Indian Councils Act, 1892, has been obtained for the passing of this Act ;

It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Gujarat Taluqdars' (Amendment) Act, 1905.

Addition of words to section 2, sub-section (*1*), clause (*a*). **2.** (*1*) To section 2, sub-section (*1*), clause (*a*), of the Gujarat Taluqdars' Act, 1888, hereinafter called "the said Act", the following words shall be added, namely : - "and a mulgameti who holds land directly from Government". Bom. Act VI of 1888.

(*2*) Sub-section (*1*) shall be deemed to have come into force on the 25th day of March, 1889 :

Provided that nothing in section 31 of the said Act shall be deemed to apply to any incumbrance or alienation made by such a mulgameti before the passing of this Act, except where his estate has been taken under management by a Government officer under the said Act.

Amendments of section 28. **3.** (*1*) Section 28 of the said Act shall be renumbered section 28, sub-section (*1*).

(*2*) For the words "between the taluqdar and the Taluqdari Settlement-officer or other officer aforesaid", and the proviso in the said sub-section, the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

Insertion of sections after section 29. **4.** After section 29 of the said Act the following sections shall be inserted, namely :—

[*Vol. III of this Code.*]

Addition of words to section 31, sub-section (*1*). **5.** To section 31, sub-section (*1*), of the said Act the following words shall be added, namely :—

[*Vol. III of this Code.*]

Insertion of new clause in section 33, sub-section (*2*). **6.** In section 33, sub-section (*2*) of the said Act, after clause (*c*) the following clause shall be inserted, namely :—

"(*cc*) to section 79A, clause (*a*), the following words shall be added, namely : 'which he uses or occupies in contravention of any of the provisions of the Gujarat Taluqdars' Act, 1888, or'."

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1904, Pt. VII, p. 196 ; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 8, and for Proceedings in Council, *see ibid*, 1904, Pt. VII, p. 206 ; *ibid*, 1905, Pt. VII, p. 78*h*.

[2] Vol. III of this Code.

[3] *See* now the Government of India Act, 1915 (5 and 6 Geo. 5, ch. 61).

BOMBAY ACT No. III OF 1905.[1]

[*27th September, 1905.*]

An Act further to amend the Bombay Abkari Act, 1878.

WHEREAS it is expedient further to amend the Bombay Abkari Act, 1878, as amended by the Bombay Abkari Act Amendment Act, 1892, in manner hereinafter appearing; It is hereby enacted as follows :—

Insertions in section 18A, sub-section (2).

1. In sub-section (*2*) of section 18A of the [2]Bombay Abkari Act, 1878, as amended by the [3]Bombay Abkari Act Amendment Act, 1892, Bom. Act V of 1878. Bom. Act III of 1892.

(*a*) before the word "Thana" the words "Broach, Nasik (except the taluka of Peint)", and

(*b*) after the word "Kolaba" the words "and of the talukas of Pardi, Bulsar and Chikhli of the district of Surat"

shall be inserted.

BOMBAY ACT No. IV OF 1905.[4]

[*6th October, 1905.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to amend the enactments specified in the first schedule to this Act; and to repeal the enactments specified in the second schedule to this Act; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Repealing and Amending Act, 1905.

Amendment of certain enactments.

2. (*1*) The enactments specified in the first schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

(*2*) The amendment of the [5]Bombay General Clauses Act, 1904, shall be deemed to have come into force on the 30th May, 1904. Bom. Act I of 1904.

Repeal of certain enactments.

3. The enactments specified in the second schedule are hereby repealed to the extent mentioned in the fourth column thereof.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 7, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 78*l* and 395.

Short Title.—"The Bombay Abkari (Amendment) Act, 1905," *see* the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921), Vol. V of this Code.

[2] Vol. II of this Code.

[3] Vol. III of this Code.

[4] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 5, for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 29, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 78*k* and 395.

[5] *Supra.*

THE FIRST SCHEDULE.

1.	2	3	4
Year.	No.	Short title.	Amendments.
1867	VIII	The [1] Bombay Village Police Act, 1867.	To the proviso to the second paragraph of section 9 *add the words* or, if he is an officiator under the provisions of the Bombay Hereditary Offices Act, of Government.
1878	V	The [1] Bombay Abkari Act, 1878.	In section 45, clauses (*c*) and (*e*), *for the words* commits any act *the words* wilfully does or omits to do any thing *shall be substituted.*
1879	V	The [1] Bombay Land-Revenue Code, 1879.	To section 2, clause (1), *add the words* and for the purposes of sections 25 and 26 includes a village officer appointed or officiating under any of the provisions of the Bombay Hereditary Offices Act or the Matadars Act, 1887. In section 38, *for the word* Commissioner *wherever it occurs, substitute the word* Collector. To the heading above section 40, *add the symbol* "&c." In section 43, (*a*) *after the word* remove, *insert the words* from his holding, (*b*) *after the words* natural product, *where they first occur, insert the words* whether of the like description or not. In section 52, as amended by section 4 of the Bombay Land-Revenue Code Amendment Act, 1901, *for the word* or, *where it first occurs, substitute the word* and. In section 80, *for the words* for the Collector to *substitute the words* the Collector shall on due tender thereof. In section 187, *after the words* in force, *in the second place where they occur, insert the words* or by any contract with the Secretary of State for India in Council. In section 214, clause (*c*), *after the word* may *insert the words* or may not. In section 214, clause (*i*), *after the word* generally *insert the words* for carrying out the purposes and objects of this Act, and.

[1] Vol. II of this Code.

THE FIRST SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1879	V	The [1] Bombay Land-Revenue Code, 1879—*contd.*	In Schedule B (*a*) *to the Form of Bond to be required under section 23, add the following proviso, namely*:— [Vide Vol. II of this Code.] *and* (*b*) *in the Form of Security to be subjoined to the Bond of the Principal for the word* such *substitute the words* the sum of rupees, in which the abovesaid has bound himself, or such smaller.
1902	IV	The [2] City of Bombay Police Act, 1902.	In section 44, *for the word* persons *substitute the word* person.
1903	IV	The [3] Bombay Land Record-of-rights Act, 1903.	In section 8, *after the words* furnish the information *insert the words* or produce the documents.
1904	I	The [2] Bombay General Clauses Act, 1904.	In the schedule, *after the words* the whole, *where they first occur, the words* except so much of Schedule B as relates to unrepealed enactments *shall be inserted.*

THE SECOND SCHEDULE.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1879	V	The [1] Bombay Land-Revenue Code, 1879.	In section 144, *the words* subject to the orders of the Commissioner.
1890	II	The [4] Bombay Salt Act, 1890.	In section 58, *the figure* (1).
1899	III	The [5] Government Occupants (Sind) Act, 1899.	In section 6, *the figure* 1).

[1] Vol. II of this Code.
[2] *Supra.*
[3] Repealed by s. 2 of the Bombay Land-revenue (Amendment) Act, 1913 (Bom. Act 4 of 1913), Vol. V of this Code.
[4] Vol. III of this Code.

BOMBAY ACT No. V OF 1905.[1]

[*12th December, 1905.*]

An Act further to amend the [2] City of Bombay Municipal Act, 1888.

WHEREAS it is expedient further to amend the [2] City of Bombay Municipal Act, 1888, in manner hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the City of Bombay Municipal (Amendment) Act, 1905.

Bom. Act III of 1888. Substitution of a clause for section 3, clause (*u*). **2.** For clause (*u*) of section 3 of the [2] City of Bombay Municipal Act, 1888, hereinafter called "the said Act", the following clause shall be substituted, namely :—

[*Vol. III of this Code.*]

Addition of a proviso to clause (*j*) of sub-section (*2*) of section 26. **3.** To clause (*j*) of sub-section (*2*) of section 26 of the said Act the following proviso shall be added, namely :—

[*Vol. III of this Code.*]

Amendments in section 28. **4.** (*1*) For clause (*c*) of section 28 of the said Act, the following clause shall be substituted, namely :—

[*Vol. III of this Code.*]

(*2*) In clause (*m*) of the said section, for the words "to any such challenge to appear, within three days after the poll, before the Commissioner" the following words shall be substituted, namely :—

[*Vol. III of this Code.*]

(*3*) In clause (*p*) of the said section

(*a*) for the words "the Commissioner shall" the following words shall be substituted, namely :—

"The Commissioner shall, as soon as may be, declare the results of the poll, specifying the total number of valid votes given for each candidate. He shall also"; and

(*b*) for the words "and cause lists to be prepared of the valid votes given for each candidate" the following words shall be substituted, namely :—

[*Vol. III of this Code.*]

Amendments in section 33. **5.** (*1*) In sub-section (*1*) of section 33 of the said Act,

(*a*) for the word "eight" the word "fifteen" shall be substituted; and

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 329; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 523, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 408 and 563.

[2] Vol. III of this Code.

(*b*) after the word "Court" the following words shall be added, namely :—

[*Vol. III of this Code.*]

(*2*) In sub-section (*2*) of the said section, after the words "he shall confirm the declared result of the election" the following words shall be substituted for the remainder of the sub-section, namely :—

[*Vol. III of this Code.*]

Substitution of a sub-section for section 68, sub-section (*2*).

6. For section 68, sub-section (*2*), of the said Act the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

Insertion of words in section 77, sub-section (*2*), clause (*d*).

7. To clause (*d*) of sub-section (*2*) of section 77 of the said Act the following words shall be added, namely :—"and, after approved service of not less than seven years to a sum not exceeding rupees twelve hundred."

Insertion of words in section 118, clause (*c*).

8. In clause (*c*) of section 118 of the said Act,

(*a*) after the words "salaries," the words "joining-time allowances" shall be inserted, and

(*b*) after the word "Act" the words "and of any officer whose services may, at the request of the corporation, be placed by Government at their disposal" shall be added.

Addition of a sub-section to section 120.

9. To section 120 of the said Act the following sub-section shall be added, namely :—

[*Vol. III of this Code.*]

Insertion of words in section 220.

10. In section 220 of the said Act, before the word "belonging" the words "vesting in or" shall be inserted.

Insertion of a section after section 220.

11. After section 220 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code.*]

Amendments in section 221.

12. (*1*) Section 221 of the said Act shall be re-numbered section 221, sub-section (*1*).

(*2*) After the said sub-section, the following sub-section shall be inserted, namely :—

[*Vol. III of this Code.*]

Repeal of section 226.

13. Section 226 of the said Act is hereby repealed.

Insertion of words in sections 228, 229, 230, 233, 236 and 239.

14. (*1*) In sections 228, 229, 230, sub-section (*1*), 233, sub-section (*1*), and 236 of the said Act, after the words "municipal drain", the words "or other place legally set apart for the discharge of drainage" and

in section 239 of the said Act, after the words " municipal drains " the words " or other places legally set apart for the discharge of drainage " shall be inserted.

(*2*) In section 233, sub-section (*2*), of the said Act, after the words " municipal-drain " the words " or other place aforesaid " shall be inserted.

Substitution of words in section 228.

15. In section 228 of the said Act, for the words " the communications between drains not belonging to the corporation and municipal drains " the words " connections with municipal drains or other places aforesaid " shall be substituted.

Substitution of words in section 230, sub-section (*4*).

16. In section 230, sub-section (*4*), of the said Act, for the words " by whom or in whose behalf " the words " for the benefit of which " shall be substituted.

Amendments of section 231.

17. In section 231 of the said Act,

(*a*) in clause (*a*), after the word " level " the words " and according to such alignment " shall be inserted ; and

(*b*) the following proviso shall be added, namely :—

[*Vol. III of this Code.*]

Amendments of section 232.

18. In section 232 of the said Act,

(*a*) in sub-section (*1*), for the words " to make a drain emptying into a covered cesspool " the following words shall be substituted, namely :—

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(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

Insertion of a section after section 232.

19. After section 232 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code.*]

Amendments of section 233, sub-section (*1*).

20. In sub-section (*1*) of section 233 of the said Act,

(*a*) after the word " city " the words " or of the part of the city in which such drain is situated " shall be inserted, and

(*b*) for clause (*b*) the following clause shall be substituted, namely :—

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Insertion of a section after section 233.

21. After section 233 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code.*]

Substitution of word in section 234, sub-section (2).

22. In sub-section (2) of section 234 of the said Act, for the words "such building" the words "the premises in which such building is situated" shall be substituted.

Amendments of section 288, sub-section (1).

23. In sub-section (1) of section 238 of the said Act,

(a) for the words "On receipt of any such application" the words

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shall be substituted, and

(b) for the words

(i) "applicant," in the first place where it occurs, the words "said owner or occupier," and, in the second place where it occurs, the words "said premises", and

(ii) "drain to which his application refers" the words "communicating drain"

shall be substituted.

Substitution of a section for section 241.

24. For section 241 of the said Act the following section shall be substituted, namely :—

[*Vol. III of this Code.*]

Substitution of words in section 242.

25. In section 242 of the said Act, for the words "whether for the use of the owner or occupier of the said permises or not" the words "otherwise than for the sole use and benefit of the said premises" shall be substituted.

Amendments in section 244.

26. In section 244 of the said Act,

(a) to sub-section (1) the following words shall be added, namely :—

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(b) in clause (a) of sub-section (2), for the words "ten" and "twenty" the words "fifteen" and "forty" shall respectively be substituted ; and

(c) the following sub-section shall be added, namely :—

[*Vol. III of this Code.*]

Addition of words to section 246, sub-section (1) clause (c).

27. To section 246, sub-section (1), clause (c), of the said Act, the words "within or without the city" shall be added.

Substitution of sections for sections 247 and 248.

28. For sections 247 and 248 of the said Act, the following sections shall be substituted, namely :—

[*Vol. III of this Code.*]

Insertion of a section after section 249.

29. After section 249 of the said Act, the following section shall be inserted, namely :—

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30. After section 251 of the said Act the following section shall be inserted, namely :— Insertion of a section after section 251.

[*Vol. III of this Code.*]

31. After section 251A of the said Act the following section shall be inserted, namely :— Insertion of a section after section 251A.

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32. (*1*) In section 253 of the said Act, after the word "urinals" the words "and bathing and washing places" shall be inserted. Insertion of words in sections 253, 255, 256 and 258.

(*2*) In sections 255, 256 and 258, of the said Act, after the word "urinal," wherever it occurs, the words "or bathing or washing place" shall be inserted.

33. For section 257 of the said Act the following section shall be substituted, namely :— Substitution of a new section for section 257.

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34. After section 257 of the said Act the following section shall be inserted, namely :— Insertion of a section after section 257.

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35. Sub-section (*2*) of section 259 of the said Act is hereby repealed. Repeal of section 259, sub-section (*2*).

36. After section 259 of the said Act the following section shall be inserted, namely :— Insertion of a section after section 259.

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37. In section 260 of the said Act, for the words "section 230, 231, 238, 256 or 257" the words "this chapter" shall be substituted. Substitution of words in section 260.

38. For sections 272 and 273 of the said Act the following sections shall be substituted, namely :— Substitution of sections for sections 272 and 273.

[*Vol. III of this Code.*]

39. In section 281, before the word "cesspool", where it occurs for the second time, insert the words "privy, water-closet or". Insertion of words in section 281.

40. In section 287, sub-section (*2*), of the said Act, Substitution of words in section 287, sub-section (*2*).

(*a*) for the words "the Commissioner shall not" the words "no person shall," and

(*b*) for the words "any person," where they first occur, the word "he" shall be substituted.

41. After section 287 of the said Act the following section shall be inserted, namely :— Insertion of a section after section 287.

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Substitution of a section for section 297.

42. For section 297 of the said Act the following section shall be substituted, namely :—

[*Vol. III of this Code.*]

Amendment of sections 302, 303 and 304.

43. (*1*) In section 302 of the said Act, after the word " street, " in the first place in which it occurs, the following words shall be inserted, namely :—

" whether it is intended to allow the public a right of passage or access over such street, or not ";

(*2*) in section 303, sub-section (*1*), of the said Act, after the word " every " insert the word " such, " and

(*3*) in section 304, sub-sections (*1*) and (*2*), of the said Act, before the words " new private street ", insert the word " such ".

Amendment of section 337, sub-section (*1*).

44. In section 337, sub-section (*1*), of the said Act, delete the word " and " and after the word " dimensions " add the following words, namely :—

" and the name of the person whom he intends to employ to supervise its erection."

Amendments in section 338.

45. (*1*) Section 338 of the said Act shall be re-numbered section 338, sub-section (*1*).

(*2*) For clauses (*a*) and (*b*) of the said sub-section the following clauses shall be substituted, namely :—

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(*3*) To clause (*c*) of the said sub-section the following words shall be added, namely :—

" and the means of access to such building."

(*4*) After the said sub-section the following sub-section shall be inserted namely :—

[*Vol. III of this Code.*]

Amendment of section 342.

46. In section 342 of the said Act, after the word " executed ", delete the word " and ", and after the word " work ", where it occurs for the second time, add the following words, namely :—

" and the name of the person whom he intends to employ to supervise its execution."

Amendment of section 343.

47. (*1*) In sub-section (*1*) of section 343 of the said Act after the words " plans and sections ", insert the words " of the building and "; and after the words " of the intended new work ", where they occur for the second time, substitute for the remaining words of the said sub-section the words " and the provisions of sections 338, 339, 340 and 341 shall apply to the intended new work so far as the Commissioner may consider them to be applicable."

(2) After the said sub-section the following sub-section shall be inserted, namely :—

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(3) Sub-section (2) of the said section shall be deleted.

Amendment of section 344, sub-section (2).

48. In section 344, sub-section (2), of the said Act,

(*a*) after the figures " 343 " the figures and letter " 344A " shall be inserted; and

(*b*) for the word and figures " and 349 " the figures, letters and word " 349, 349A, 349 B and 349 C " shall be substituted.

Insertion of a section after section 344.

49. Before section 345 of the said Act the following section shall be inserted, namely :—

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Insertion of a clause in section 347, sub-section (1).

50. After clause (*a*) of section 347, sub-section (*1*), of the said Act the following clause shall be inserted, namely:—

[*Vol. III of this Code.*]

Provisions as to buildings which are to be newly erected.

51. In section 348, sub-section (*1*), of the said Act

(*a*) the words "on any site previously unbuilt upon" are hereby repealed;

(*b*) clause (*e*) shall be deleted and the subsequent clauses re-numbered accordingly ;

(*c*) in clause (*g*), for the word " eight " the word " ten " shall be substituted ;

(*d*) in clause (*h*),

(i) for the word " seven " the word " eight " shall be substituted, and

(ii) after the word " ceiling " the words " and a minimum height of not less than four feet " shall be inserted;

(*e*) in clause (*j*), for the word " eighty " the words " one hundred " shall be substituted.

Insertion of sections after section 349.

52. After section 349 of the said Act the following sections shall be inserted, namely :—

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Insertion of a section after section 353.

53. After section 353 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code.*]

Insertion of a section after section 354.

54. After section 354 of the said Act the following section shall be inserted, namely :—

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Substitution of sections for section 379.

55. For section 379 of the said Act the following sections shall be substituted, namely :—

[*Vol. III of this Code.*]

Amendments in section 461, clause (*c*).

56. (*1*) In section 461, clause (*c*), of the said Act,

(*a*) the word "new" is hereby repealed, and

(*b*) after the word "chimneys" the words "the materials, dimensions and strength of floors and staircases, and of all scantlings, girders, posts and columns" shall be inserted.

Insertion of new clauses in section 461.

(*2*) After clause (*c*) of the said section the following clause shall be inserted, namely :—

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(*3*) After clause (*d*) of the said section the following clause shall be inserted, namely :—

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Amendments in section 470.

57. In section 470 of the said Act,

(*a*) in sub-section (*1*), before the word "repeal" the words "modified or" shall be inserted, and

(*b*) in sub- section (*2*), before the word "repeal" the words "modify or" shall be inserted, and for the proviso to the said sub-section the following proviso shall be substituted, namely :—

[*Vol. III of this Code.*]

(*c*) in sub-section (*3*), before the word "repeal" the words "modification or" shall be inserted.

Substitution of sections for sections 471 and 472.

58. For sections 471 and 472 of the said Act the following sections shall be substituted, namely :—

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Substitution of a sub-section for section 489, sub-section (*2*).

59. For sub-section (*2*) of section 489 of the said Act the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

Insertion of schedules.

60. After Schedule R of the said Act the following schedules shall be inserted, namely :—

SCHEDULES S AND T.

[*Vol. III of this Code.*]

BOMBAY ACT No. I OF 1906.[1]

[*1st June, 1906.*]

An Act further to amend the Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind.

Bom. Act XII of 1866.

WHEREAS it is expedient further to amend the [2] Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind, in manner hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [3] Indian Councils Act, 1892, has been obtained for the passing of the Act ; It is hereby enacted as follows :—

Short title.

1. (*1*) This Act may be called the Sind Courts Amendment Act, 1906.

Commencement.

(*2*) It shall come into force upon such day [4] as the Local Government, by notification in the Bombay Government Gazette, may direct.

(*3*) All proceedings pending on such day in the Sadar Court or in the District Court or Court of Sessions of Karachi shall be deemed to be transferred to the Court of the Judicial Commissioner and shall be tried, heard and determined as if they had been instituted in the Court of the Judicial Commissioner and all appeals and applications in suits or other matters pending on such day in any Court which but for the passing of this Act would have lain to the Sadar Court or the District Court or Court of Sessions of Karachi shall be deemed to lie to the Court of the Judicial Commissioner.

Bom. Act XII of 1866.

Substitution of sections for section 1.

2. For section 1 of the [2] Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind, hereinafter called "the said Act," the following sections shall be substituted, namely :—

[*Vol. II of this Code.*]

Amendment in section 2.

3. In section 2 of the said Act after the word "and" the words "save as hereinbefore provided" shall be inserted.

Repeal of section 7.

4. Section 7 of the said Act is hereby repealed.

Substitution of section for section 9.

5. For section 9 of the said Act the following section shall be substituted, namely :—

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1906, Pt. VII, p. 3 ; for Report of Select Committee, *see ibid*, 1906, Pt. VII, p. 50, and for Proceedings in Council, *see ibid*, 1906, Pt. VII, pp. 30 and 65.

[2] Vol. II of this Code.

[3] *See* now the Government of India Act, 1915 (5 and 6 Geo. 5, ch. 61).

[4] 25th June 1906, *see* Bombay Government Gazette, 1906, Pt. I, p. 692.

Insertion of sections after section 9.

6. After section 9 of the said Act the following sections shall be inserted, namely :—

[*Vol. II of this Code.*]

Substitution of section for section 10.

7. For section 10 of the said Act, the following section shall be substituted, namely :—

[*Vol. II of this Code.*]

Insertion of section after section 15.

8. After section 15 of the said Act the following section shall be inserted, namely :—

[*Vol. II of this Code.*]

Substitution of expressions.

9. (*1*) For the expressions "Governor [1] [of Bombay] in Council" and "Governor General of India in Council," wherever they occur in the said Act, the expressions "Local Government" and "Government of India" shall respectively be substituted.

(*2*) For the expression "Sadar Court" occurring in sections 6, 16 and 17 shall be substituted the expression "Court of the Judicial Commissioner".

Amendment in section 21.

10. In section 21 of the said Act,

for the proviso the following shall be substituted, namely :—

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BOMBAY ACT No. II OF 1906.[2]

[*29th October, 1906.*]

An Act to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts; It is hereby enacted as follows :—

Short title.

1. (*1*) This Act may be called the Mamlatdars' Courts Act, 1906.

Local extent.

(*2*) It shall extend to the whole of the Bombay Presidency, except the City of Bombay and Aden.

Repeal of Bom. Act III of 1876.

2. The Mamlatdars' Courts Act, 1876, is hereby repealed.

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[1] These words were inserted by s. 2 of the Bombay Repealing and Amending Act 1910 (Bom. Act 1 of 1910), Vol. V of this Code.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 520; for Report of Select Committee, *see ibid*, 1906, Pt. VII, p. 5, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, p. 578; *ibid*, 1906, Pt. VII, pp. 31 and 189.

Interpretation.

3. In this Act, unless there is anything repugnant in the subject or context,

(*a*) the word "Mamlatdar" shall include any Revenue-officer exercising for the time being the powers of a Mamlatdar, of a Mukhtyarkar, or of a Mahalkari, and any other person who may be specially authorized by the Governor in Council to exercise the powers of a Mamlatdar under this Act; and

(*b*) the words "plaintiff" and "defendant" shall include—

(*i*) a pleader duly appointed to act on behalf of such plaintiff or defendant, and

(*ii*) the recognized agent of a plaintiff or defendant as defined in section 37 of the [1] Code of Civil Procedure.

Power to appoint Joint Mamlatdar.

4. (*1*) The Governor in Council may, by notification in the Bombay Government Gazette, appoint in any taluka a Joint Mamlatdar under this Act who shall be invested with co-extensive powers and a concurrent jurisdiction with the Mamlatdar, except that he shall dispose of such suits only as he may receive from the Mamlatdar.

Power of Mamlatdar to transfer suits to the Joint Mamlatdar.

(*2*) The Mamlatdar is hereby empowered to transfer to the Joint Mamlatdar for disposal any suit under this Act the plaint in which has been presented to the Mamlatdar under section 7, and to re-transfer to his own file any such suit, of which the Joint Mamlatdar is, owing to death, sickness or any other cause, unable to dispose.

Delegation of powers to Commissioner.

(*3*) The Governor in Council may [2] delegate his powers under sub-section (*1*) to the Commissioner.

Powers of Mamlatdars' Courts.

5. (*1*) Every Mamlatdar shall preside over a Court, which shall be called a Mamlatdar's Court, and which shall, subject to the provisions of sections 6 and 26, have power, within such territorial limits as may from time to time be fixed by the Governor in Council, to give immediate possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or to restore the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes to any person who has been dispossessed or deprived thereof otherwise than by due course of law, or who has become entitled to the possession or restoration thereof by reason of the determination of any tenancy or other right of any other person, not being a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use

[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), General Acts, Vol. VI.

[2] For instance of such a notification, *see* Bombay Local Rules and Orders.

claimed, or who is the legal representative of such former owner or part-owner :

Provided that, if in any case the Mamlatdar considers it inequitable or unduly harsh to give possession of any such property, or to restore any such use to a person who has become entitled thereto merely by reason of the determination of any such tenancy or other right, or if it appears to him that such case can be more suitably dealt with by a Civil Court, he may in his discretion refuse to exercise the power aforesaid, but shall record in writing his reasons for such refusal.

Power to issue injunction.

(*2*) The said Court shall also, subject to the same provisions, have power within the said limits, when any person is otherwise than by due course of law disturbed or obstructed, or when an attempt has been made so to disturb or obstruct any person, in the possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or in the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes, or in the use of roads or customary ways thereto, to issue an injunction to the person causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain from causing or attempting to cause any further such disturbance or obstruction.

Suits to be filed within six months. Cause of action.

(*3*) No suit shall be entertained by a Mamlatdar's Court unless it is brought within six months from the date on which the cause of action arose.

(*4*) The cause of action shall be deemed to have arisen on the date on which the dispossession, deprivation, or determination, of tenancy or other right occurred ; or on which the disturbance or obstruction, or the attempted disturbance or obstruction, first commenced.

Explanation.—The exercise by a joint owner of any right which he has over the joint property is not a dispossession, or disturbance of possession of the other joint owner or owners within the meaning of this section.

Illustration I.

A lets *B* his field to cultivate for a specific period one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mamlatdar's Court at any time within 6 months from the date of the expiration of the said period, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration II.

B is a yearly tenant of *A*, who gives him a notice to vacate, as he is bound to do under section 84 of the [1] Bombay Land-Revenue Code, 1879, at least Bom. Act V of 1879.

[1] Vol. II of this Code.

three months before the end of the then current year of tenancy. At the commencement of the next year *B* refuses to vacate. *A* can sue *B* in the Mamlatdar's Court at any time within six months from the commencement of that year, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which *B* continues to take water from the well or water-course without *A*'s consent. *A* may sue *B* in the Mamlatdar's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the use of the water, or who is the legal representative of such former owner or part owner.

Illustration IV.

A and *B* hold lands adjacent to a पाट or फांस, or similar artificial water-course, which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mamlatdar's Court, at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

Power of Collector to transfer suits.

6. The Collector may, after due notice to the parties, by order in writing transfer any suit from any Mamlatdar's Court in his district to any other Mamlatdar's Court in his district, and the Mamlatdar's Court to which the suit is so transferred shall thereupon exercise jurisdiction in such suit; but any order issued to village-officers under section 21 shall be issued by the Mamlatdar to whom such village-officers are subordinate.

Suits commenced by plaint. Contents of plaint.

7. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mamlatdar in open Court by the plaintiff, and which shall contain the following particulars :—

(*a*) the name, age, religion, caste, profession and place of abode of the plaintiff;

(*b*) the name, age, religion, caste, profession and place of abode of the defendant;

(*c*) the nature and situation of the property of which possession or use is sought, or the nature of the injunction to be granted, as the case may be;

(*d*). the date on which the cause of action arose ;

(*e*) the circumstances out of which the cause of action arose ; and

(*f*) a list of the plaintiff's documents, if any, and of his witnesses, if any, shewing what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be fixed under section 14.

Informal petitions to be treated as plaints.

8. Where a petition not in the form of a plaint is presented to the Mamlatdar and the subject matter thereof appears to fall within the scope of section 5, the Mamlatdar shall explain to the person presenting the petition the nature of the reliefs afforded by this Act and shall inquire whether the petitioner desires to obtain relief thereby. If the petitioner expresses a desire so to obtain relief, the Mamlatdar shall endorse the desire on the petition which shall thereupon be deemed to be a plaint presented under section 7.

Examination of plaintiff on oath.

9. Where the plaint does not contain the particulars specified in section 7 or is unnecessarily prolix, the Mamlatdar shall forthwith examine the plantiff upon oath and ascertain from him such of the particulars specified in section 7 as are not clearly and correctly stated in the plaint and shall reduce the examination to writing in the form of an endorsement on or annexure to the plaint which shall thereupon be deemed to be part of the plaint. Where the pliantiff requires time to obtain any of the particulars specified in section 7, the Mamlatdar shall grant him such time as may under all the circumstances appear reasonable.

Plaint to be subscribed and verified.

10. When the plaint is presented, and has, if necessary, been treated in the manner specified in section 9, the Mamlatdar shall require the plaintiff to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect :—

"I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief."

Endorsement by Mamlatdar.

11. (*1*) The Mamlatdar shall endorse the plaint to the effect that it was duly subscribed and verified.

Procedure where plaintiff cannot write.

(*2*) Where the plaintiff cannot write, the verification may be written for him in open Court and he shall affix his mark to his name in token of the authenticity of the verification, and the Mamlatdar shall, in such case, record that the verification was made in his presence at the request of the plaintiff, and that his mark was so affixed.

Rejection of plaint.

12. The Mamlatdar shall reject the plaint

(*a*) where the plaintiff declines to make a statement on oath under section 9 ; or

(*b*) where the plaintiff is willing to make or has made a statement on oath under section 9, but fails to furnish the particulars specified in section 7 within the time fixed under section 9 or altogether; or

(*c*) where it appears upon the face of the plaint,

(*i*) that the property or use claimed is not one of the kind specified in section 5, or

(*ii*) that the cause of action arose more than six months before the plaint was presented; or

(*d*) where the plaintiff declines to subscribe or verify the plaint as required by sections 10 and 11.

Return of plaint.

13. Where it appears to the Mamlatdar that the subject of the plaint is not within his jurisdiction, he shall return the plaint to be presented in the proper Court.

Procedure where plaint admissible.

14. (*1*) Where a plaint is admissible, the Mamlatdar shall receive and file it. He shall then fix a convenient day and place for the trial of the case, and shall issue, at the expense of the plaintiff, notice in the form of Schedule A to the defendant. He shall then require the plaintiff to appear with his documents, if any, and witnesses, if any, on the day and at the place fixed.

(*2*) The date to be fixed for the trial of the case shall not be earlier than ten days, nor later than fifteen days, from the day on which the notice is issued, except for sufficient reason to be recorded in writing by the Mamlatdar with his own hand.

(*3*) The place to be fixed for the trial of the case may be in the Mamlatdar's office, or at or near the scene of dispute, or at any other spot that the Mamlatdar considers convenient to the parties.

Attendance of witnesses.

15. (*1*) Where either party requires any witness to be summoned to appear on the day and at the place fixed, the Mamlatdar shall issue a summons for that purpose.

(*2*) The Mamlatdar may issue, after recording his reasons in writing, a warrant for the arrest of any such witness if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

(*3*) The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be in force in regard to the attendance of witnesses in Subordinate Civil Courts.

Where plaintiff makes default, plaint to be rejected with costs.

16. (*1*) Where the plaintiff fails to attend, or to produce his documents, if any, or to adopt measures to procure the attendance of his witnesses, if any, on the day and at the place fixed, the Mamlatdar shall reject the plaint with costs, whether the defendant appears or not, unless the defendant admits the claim.

Where defendant does not appear, case to be heard *ex parte*.

(*2*) Where the plaintiff attends as required by section 14, sub-section (*1*), but the defendant fails to attend, and the Mamlatdar is satisfied from the evidence before him that the notice has been duly served on the defendant and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear and decide the plaint *ex parte* :

But case may be reheard on sufficient cause being shown

Provided, *firstly*, that if either party satisfies the Mamlatdar at any time within thirty days from the date of the rejection of a plaint under sub-section (*1*), or of an *ex parte* decision under sub-section (*2*), that he was prevented by some unavoidable circumstance from attending, or from producing his documents or from adopting measures to procure the attendance of his witnesses, as the case may be, it shall be lawful for the Mamlatdar to issue a notice in the form of Schedule B at the expense of the applicant to the opposite party and, if still satisfied after hearing the opposite party that the applicant was prevented as alleged, to re-hear the case at such time and place as he may then fix :

or plaintiff may withdraw his suit.

Provided, *secondly*, that nothing in the foregoing provisions shall prevent the plaintiff from withdrawing his suit on payment of the defendant's costs.

When proceedings may be adjourned.

17. (*1*) Where, in the case mentioned in sub-section (*2*) of section 16, the Mamlatdar is not satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall adjourn the trial of the case and issue a fresh notice under section 14, sub-section (*1*), to the defendant.

(*2*) Where any witness who has been duly summoned, or for whose arrest a warrant has been issued under sub-section (*2*) of section 15, fails to attend on the day and at the place fixed, the Mamlatdar may, if he considers there is sufficient reason, after taking the evidence of those present, adjourn the hearing of the suit from time to time till the attendance of such witness can be enforced.

(*3*) The Mamlatdar may, for any other sufficient reason to be recorded in writing, adjourn the trial of the case for such time as he thinks fit, but not ordinarily exceeding ten days.

(*4*) The provisions of sections 15 and 16 shall apply in respect of any day to which the trial of the case may be adjourned under this section, as if such day were the day originally fixed for the trial.

Minor may be a party.

18. (*1*) A minor may sue or be sued, if he is represented by a natural or duly appointed guardian.

Power to add parties.

(*2*) The Mamlatdar may, at any stage of the proceedings, order that the name of any person to whom possession or enjoyment of the property or use claimed, or of any part thereof, may have been transferred, or the addition of whom as a party appears necessary in order to enable the Court effectually and completely to adjudicate upon the issues, be added as a plaintiff or defendant, as the circumstances of the case may require :

Provided that no person shall be added as a plaintiff without his consent :

Provided also that in respect of any person so added, not being a transferee pending the suit, the suit shall for the purposes of section 5, sub-section (*3*), be deemed to have been instituted on the day when his name was so added.

Procedure in case of death of party.

(*3*) In case of the death of any party while the suit is pending,

(*i*) if application is made within one month of such death, the Mamlatdar shall determine summarily who is the legal representative of the deceased party and shall enter on the record the name of such representative ;

(*ii*) if no such application is made, the suit shall abate.

(*4*) Where the Mamlatdar orders the name of any person to be added as a defendant or enters on the record the name of any person as the legal representative of a deceased defendant, the Mamlatdar shall issue to such person a notice as provided in section 14 ; and the trial shall proceed on the date fixed in such notice.

Points to be decided by Mamlatdar at hearing.

19. (*1*) On the day fixed, or on any day to which the proceedings may have been adjourned, the Mamlatdar shall, subject to the provisions of section 16, proceed to hear all the evidence that is then and there before him, and to try the following issues, namely :—

(*a*) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use—

(*1*) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed up to any time within six months before the suit was filed ;

(*2*) whether the defendant is in possession at the time of the suit, and, if so, whether he obtained possession otherwise than by due course of law ;

(*b*) if the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof—

(*1*) whether the defendant is in possession of the property or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims ;

(*2*) whether such right has determined at any time within six months before the suit was filed ;

(*3*) whether the defendant is other than a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, and other than the legal representative of such former owner or part owner ;

(*c*) if the plaintiff avers that he is still in possession of the property or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use—

(*1*) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed ;

(*2*) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment ;

(*3*) whether such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before the suit was filed.

Power of Mamlatdar to examine other witnesses and inspect property in dispute.

(*2*) The Mamlatdar may, after due notice to, and in the presence of, the parties, summon and examine as a witness any person who has not been summoned or produced, and may call for and cause to be proved any document which has not been applied for or produced, by either of the parties, where he considers it expedient in the interests of justice so to do, and may, if he thinks fit, make a personal inspection of the property in dispute in the presence of, or after due notice to, the parties.

Record of proceedings by Mamlatdar.

(*3*) The Mamlatdar shall with his own hand make or sign a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds, and briefly record his reasons for his finding.

Orders to be passed by Mamlatdar upon decisions in

(*4*) Where the Mamlatdar's finding upon the issues is in favour of the plaintiff, he shall make such order, not being in excess of the powers vested in him by section 5, as the circumstances of the case appear to him to require ; and where his finding is in favour of the defendant, he shall dismiss the suit.

In either case the costs of the suit, including the costs of execution, shall follow the decision. favour of plaintiff and defendant.

20. Every order of the Mamlatdar, whether for rejecting or returning a plaint or whether for allowing or disallowing a claim, shall be endorsed by the Mamlatdar on the plaint and shall be read out by him in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders, and brief reasons for the order shall be placed by him on record. Mamlatdar's order to be endorsed on plaint and read out in open Court.

21. (*1*) Where the Mamlatdar's decision is for awarding possession or restoring a use, he shall give effect thereto by issuing such orders to the village-officers, or to any subordinate under his control or otherwise, as he thinks fit : Mamlatdar's decision how executed.

Provided that, notwithstanding anything contained in this Act, where, at the time when a decision is recorded by the Mamlatdar for awarding possession of any land, there is a crop on such land which has been sown by, or at the expense of, the defendant, and the Mamlatdar is satisfied that it has been so sown in good faith, the Mamlatdar may, and if the defendant makes an application for the purpose and furnishes sufficient security, or deposits in Court a sufficient sum, for the payment of the costs of the suit, shall pass an order staying delivery of possession of such land to the plaintiff seeking possession thereof, either Proviso as to growing crops.

(*a*) until the plaintiff agrees to take the crop at a valuation, to be made under the orders of the Mamlatdar, according to the value of the crop at such time, including any instalments of the Government assessment which the defendant may have paid for the current year : or

(*b*) where the plaintiff is unwilling to take the crop at such valuation until after the expiration of sufficient time for the crop to be gathered by the defendant.

The amount of any valuation made under clause (*a*) of the proviso to this sub-section shall be paid to the defendant through the Mamlatdar, and shall be recoverable from the plaintiff as an arrear of land-revenue.

(*2*) Where the Mamlatdar's decision is for granting an injunction, he shall cause the same to be prepared in the form of Schedule C, and shall deliver or tender the same then and there to the defendant, if present, or if the defendant is not present, shall send it to the village-officers, or to any subordinate under his control, to be served upon the defendant. Mode of serving injunction.

Recovery of costs awarded.

(*3*) Where the Mamlatdar awards costs, such costs, together with the costs of execution, shall be recoverable from the party ordered to pay them as an arrear of land-revenue.

Disobedience to an injunction how punishable.

(*4*) Any person disobeying an injunction granted under sub-section (*2*) shall be punishable under section 188 of the [1] Indian Penal Code. XLV of 1860.

Possession to be given without prejudice to rights of parties.

22. Subject to the provisions of section 23, sub-section (*2*) and section 24 the party to whom the Mamlatdar gives possession, or restores a use, or in whose favour an injunction is granted, shall continue in possession or use until ousted by a decree or order of a competent Civil Court:

Provided, *firstly*, that nothing in this section shall prevent the party against whom the Mamlatdar's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property, or out of enjoyment of any use:

Provided, *secondly*, that in any subsequent suit or other proceeding in any Civil Court between the same parties, or other persons claiming under them the Mamlatdar's decision respecting the possession of any property or the enjoyment of any use or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (*1*) of section 21, shall not be held to be conclusive.

Bar of appeal.

23. (*1*) There shall be no appeal from any order passed by a Mamlatdar under this Act.

Collector's power to revise Mamlatdar's proceedings.

(*2*) But the Collector may call for and examine the record of any suit under this Act, and if he considers that any proceeding, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with this Act, as he thinks fit.

Collector deemed to be a Court.

(*3*) Where the Collector takes any proceedings under this Act he shall be deemed to be a Court under this Act.

Powers of the Court of the Judicial Commissioner of Sind.

24. The Court of the Judicial Commissioner of Sind may exercise over Mamlatdars' Courts in the Province of Sind the powers exercised by the High Court of Bombay, over Mamlatdars' Courts in other parts of the Bombay Presidency.

Punishment for verification of false plaint.

25. Any plaintiff subscribing and verifying any plaint under this Act which he either knows or believes to be false, or does not believe to be true, in any material point, shall be deemed to have committed an offence punishable under section 193 of the [1] Indian Penal Code. XLV of 1860.

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[1] General Acts, Vol. I.

26. No suit shall lie under this Act Bar of certain suits.

(*a*) against Government or against any officer of Government in respect of any act done or purporting to be done by any such officer in his official capacity, except where acting as a manager or guardian duly constituted under any law for the time being in force; or

(*b*) in respect of any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court, or under Chapter XII of the [1] Code of Criminal Procedure, 1898. V of 1898.

SCHEDULE A.

FORM OF NOTICE TO BE ISSUED TO THE DEFENDANT UNDER SECTION 14.

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.

Defendant.

TO DEFENDANT—(*name, age, religion, caste, profession and place of abode*).

WHEREAS (*here enter the name, age, religion, caste, profession and place of abode of the plaintiff*) has instituted a suit in this Court against you (*here state the particulars of the plaint*):

You are hereby summoned to appear in this Court at the village of in person or by duly authorized agent on the day of at o'clock *m.*, to answer the above-named plaintiff; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above fixed; and you are hereby required to take notice that, in default of such appearance at the before mentioned time and place, the suit will be heard and determined in the absence of yourself and your agent.

Dated this day of 19 .

(*Signed*)

Mamlatdar.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within mentioned date.

[1] General-Acts, Vol. V.

SCHEDULE B.

FORM OF NOTICE TO BE ISSUED UNDER SECTION 16.

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.

Defendant.

To PLAINTIFF (*or* DEFENDANT, *as the case may be*).

WHEREAS, in the suit above specified, instituted in this Court by , the Court ordered on the day of last that , and the said plaintiff (*or* defendant, *as the case may be*) has, under date the day of , applied to this Court to re-hear the case on the grounds that (*here state the grounds*) :

This is to give you notice that the said application will be heard and determined on the day of at o'clock *m.*, at the village of ; and you are hereby required to take notice that in default of your appearance personally or by agent at the said time and place, the application will be heard and determined in your absence and, if granted, a time and place for re-hearing the suit will then be fixed.

Dated this day of 19 .

(*Signed*)

Mamlatdar.

SCHEDULE C.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 21, SUB-SECTION (*2*).

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.
Defendant.

To DEFENDANT

WHEREAS in the suit above specified the Court has this day found that you have disturbed or obstructed (*or* that you have attempted to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (*or* enjoyment of the under-mentioned use of water *or* use of roads, *or otherwise as the case may be*) by (*here describe the disturbance or obstruction or attempted disturbance or obstruction found proved*) :

You are hereby prohibited from making any further attempt to disturb or obstruct (*if necessary set forth the particular kind of disturbance or obstruction which the defendant is enjoined not to repeat*) the said plaintiff in his possession of the said property (*or otherwise as the case may be*) otherwise than in execution of the decree of a competent Civil Court.

Dated this day of 19 .

(*Signed*)

Mamlatdar.

BOMBAY ACT No. I OF 1907.[1]

[*13th August, 1907.*]

An Act further to amend the [2] Bombay Tramways Act, 1874.

Bom. Act I of 1874.

WHEREAS it is expedient further to amend the [2] Bombay Tramways Act,

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Pt. VII, p. 22, and for Proceedings in Council, *see ibid*, 1907, Pt. VII, pp. 45 and 113.

[2] Vol. II of this Code.

1874, in manner hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Tramways (Amendment) Act, 1907.

Amendment of section 6.

2. To section 6 of the [1] Bombay Tramways Act, 1874, hereinafter called "the said Act", the words "without the consent of the said corporation" shall be added. Bom. Act I of 1874.

Amendment of section 9.

3. In section 9 of the said Act—

(*a*) the word "maximum" is hereby repealed;

(*b*) for the words "be eight miles per hour" the following words shall be substituted, namely :—

"not exceed such maximum as the Municipal Commissioner, with the previous sanction of Government, shall from time to time prescribe."

BOMBAY ACT No. II OF 1907.[2]

[*27th August, 1907.*]

An Act further to amend the Dekkhan Agriculturists' Relief Act, 1879.

Preamble.

WHEREAS it is expedient further to amend the [4] Dekkhan Agriculturists' Relief Act, 1879, in manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [3] Indian Councils Act, 1892, has been obtained to the passing of this Act; Bom. Act XVII of 1879.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Dekkhan Agriculturists' Relief (Amendment) Act, 1907.

Insertion of section in Chapter III.

2. In Chapter III, before section 11, of the [4] Dekkhan Agriculturists' Relief Act, 1879, hereinafter called the said Act, the following section shall be inserted, namely :— Bom. Act XVII of 1879.

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[1] Volume II of this Code.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Pt. VII, p. 2; for Report of Select Committee, *see ibid*, 1907, Pt. VII, p. 23, and for Proceedings in Council, *see ibid*, 1907, Pt. VII, pp. 39 and 106.

[3] *See* now the Government of India Act, 1915 (5 & 6 Geo. 5, Ch. 61).

[4] Volume I of this Code.

3. After section 22 of the said Act, the following section shall be inserted, namely :— Insertion of section after section 22.

[*Vol. I of this Code.*]

BOMBAY ACT No. III OF 1907.[1]

[*16th January, 1908.*]

An Act further to amend the Bombay Vaccination Act, 1877, the City of Bombay Municipal Act, 1888, and the City of Bombay Improvement Act, 1898, and to amend the [2] Bombay Motor-vehicles Act, 1904.

WHEREAS it is expedient that the Municipal Corporation of the City of Bombay should be relieved of all expenses on account of the police of the City of Bombay and that in place thereof the said corporation should undertake certain medical, educational and other expenses heretofore devolving upon Government : And whereas it is therefore expedient further to amend the [3] Bombay Vaccination Act, 1877, [4] the City of Bombay Municipal Act, 1888, and the [5] City of Bombay Improvement Act, 1898, and to amend the [2] Bombay Motor-vehicles Act, 1904, in manner hereinafter appearing ; It is hereby enacted as follows :—

Bom. Act I of 1877. Bom. Act III of 1888. Bom. Act IV of 1898. Bom. Act II of 1904.

1. (*1*) This Act may be called the City of Bombay Police Charges Act, 1907. Short title and commencement.

Bom. Act III of 1888.

(2) Sections 9, 16, 18 and 24 and so much of section 10 as relates to sections 62 and 62D of the [4] City of Bombay Municipal Act, 1888, as enacted by this Act, shall come into force on the first day of April, 1907, and the [6] rest of this Act shall come into force on a day to be notified in this behalf by the Governor in Council.

Bom. Act I of 1877.

2. To section 2 of the [3] Bombay Vaccination Act, 1877, the following sub-sections shall be added, namely :— Addition of sub-sections to section 2 of the Bombay Vaccination Act, 1877.

[*Vol. II of this Code.*]

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Part VII, p. 190 ; for Report of the Select Committee, *see ibid*, p. 420 ; and for Proceedings in Council, *see ibid*, pp. 396 and 445.

[2] This Act has been repealed by Act 8 of 1914, General Acts, Vol. VIII.

[3] Vol. II of this Code.

[4] Vol. III of this Code.

[5] *Supra.*

[6] The rest of this Act was brought into force on the 1st March, 1909, *see* Bombay Local Rules and Orders.

Amendment of section 3 of the same Act.

3. (*1*) In section 3 of the [1] Bombay Vaccination Act, 1877, for the words " Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs " the words " Commissioner, with the approval of the corporation " shall be substituted. Bom. Act I of 1877.

(*2*) For the words " The Sanitary Commissioner or other officer aforesaid," where they occur for the first time in the said section, the words " Subject to the provisions of the City of Bombay Municipal Act, 1888, the Commissioner " shall be substituted.

(*3*) For the words " Sanitary Commissioner or other officer aforesaid ", where they occur for the second time in the said section, the word " Commissioner " shall be substituted.

Amendment of sections 4, 6, 16, 17, 19 and 29 of the same Act.

4. In sections 4, 6, 16, 17, 19 and 29 of the [1] Bombay Vaccination Act, 1877, for the expressions " Sanitary Commissioner for the Presidency of Bombay or such other officer as Government directs," " Sanitary Commissioner or other officer aforesaid," and " Sanitary Commissioner or other officer," wherever they respectively occur, the expression " Commissioner " shall be substituted. Bom. Act I of 1877.

Amendment of section 5 of the same Act.

5. In section 5 of the [1] Bombay Vaccination Act, 1877, for the words " Sanitary Commissioner or other officer aforesaid," the words " health officer " shall be substituted. Bom. Act I of 1877.

Amendment of sections 6, 26 and 31 of the same Act.

6. (*1*) In section 6 of the [1] Bombay Vaccination Act, 1877, for the word " Government," wherever it occurs, the words " the corporation " shall be substituted. Bom. Act I of 1877.

(*2*) In section 26 of the same Act, for the word " Government " the words " the Standing Committee appointed under the provisions of the City of Bombay Municipal Act, 1888," shall be substituted.

(*3*) In section 31 of the same Act, for the words " The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, may, with the sanction of the Governor in Council " the words " The Commissioner may with the sanction of the corporation " shall be substituted.

Amendment of section 30 of the same Act.

7. In section 30 of the [1] Bombay Vaccination Act, 1877, for the words " Executive officer of health for the City of Bombay, appointed under the provisions of the [2]City of Bombay Municipal Act, 1888, or of the officer for the time being officiating in his appointment " the words " health officer " shall be substituted. Bom. Act I of 1877. Bom. Act III of 1888.

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[1] Vol. II of this Code.

[2] Vol. III of this Code.

Bom. Act III of 1888.

8. (*1*) In section 39, sub-section (*1*), of the [1] City of Bombay Municipal Act, 1888, hereinafter called "the said Act," the words "and of Government each," "four members of" and "Joint" are hereby repealed. Amendment of sections 39 and 40 of the City of Bombay Municipal Act, 1888.

(*2*) For sub-section (*3*) of the said section the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

(*3*) In sub-sections (*5*), (*9*) and (*10*) of the said section the word "Joint" is hereby repealed.

(*4*) In sub-section (*6*) of the said section the words "provide for the Joint Schools' Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also" are hereby repealed.

(*5*) For sub-section (*7*) of the said section the following sub-section shall be substituted, namely :—

[*Vol. III of this Code.*]

(*6*) In sub-section (*8*) of the said section, for the word "school-fund" the words "said funds" shall be substituted.

(*7*) In sub-section (*9*) of the said section—

(*a*) for the word "school-fund" the words "municipal fund" shall be substituted;

(*b*) the words "and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to by-laws duly made under section 461 and to rules made or approved by Government in this behalf" are hereby repealed.

(*8*) In section 40 of the said Act the words "in the manner described in the last preceding section or" and the word "Joint" are hereby repealed.

9. (*1*) In section 61 of the said Act after clauses (*f*) and (*g*) the following clauses respectively shall be inserted, namely :— Amendment of section 61 of the same Act.

[*Vol. III of this Code.*]

(*2*) To clause (*q*) the following proviso shall be added, namely :—

[*Vol. III of this Code.*]

10. For section 62 of the said Act the following sections shall be substituted, namely :— Substitution of new sections for section 62 of the same Act.

[*Vol. III of this Code.*]

11. In section 63 of the said Act clause (*a*) is hereby repealed. Repeal of section 63, clause (*a*), of the same Act.

[1] Vol. III of this Code.

Insertion of section after section 68 of the same Act.

12. After section 68 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code.*]

Insertion of sections after section 76 of the same Act

13. (*1*) After section 76 of the said Act the following headings and sections shall be inserted, namely :—

[*Vol. III of this Code.*]

(2) In section 80 of the said Act, after the figures " 74," the figures and letters "76A and 76B" shall be inserted.

Insertion of sections after section 89 of the same Act.

14. After section 89 of the said Act the following sections shall be inserted, namely :—

[*Vol. III of this Code.*]

Addition of proviso to section 92 of the same Act.

15. To section 92 of the said Act the following proviso shall be added, namely :—

[*Vol. III of this Code.*]

Amendment of section 111 of the same Act.

16. In section 111 of the said Act—

(*a*) for the words " all fees," where they occur for the second time, the words " the balance, after all necessary contingent expenses have been defrayed of all fees," shall be substituted ;

(*b*) after the clause relating to fees for licenses granted under Bombay Act VI of 1863 the following clause shall be inserted, namely :—

[*Vol. III of this Code.*]

Amendment of section 118 of the same Act.

17. In section 118 of the said Act after the figures " 62 " the figures and letter " 62D " shall be inserted.

Repeal of section 120 of the same Act.

18. Section 120 of the said Act and the heading thereto are hereby repealed.

Amendment of section 121 of the same Act.

19. In section 121 of the said Act the words " other " and " also," and, in the heading to the said section the word " other," are hereby repealed.

Amendment of section 461 of the same Act.

20. In section 461, clause (*a*), of the said Act,—

(*a*) the word " Joint " is hereby repealed ;

(*b*) the words "and of the functions assigned to it under sub-section (*9*) of the said section and regulating the administration by the said committee of the school-fund under sub-section (*7*) of the said section " are hereby repealed and after the figures " 39 " the word " and " shall be inserted.

Amendment of section 518 of the same Act.

21. In section 518, sub-section (*1*), of the said Act, after the figures "62" the figures and letters "62C, 62D, 89F," shall be inserted.

Addition of schedules to the same Act.

22. The schedules hereto appended shall be added to the schedules appended to the said Act.

Bom. Act IV of 1898.

Amendment of section 40 of the City of Bombay Improvement Act, 1898.

23. For section 40[1], sub-section (*4*), of the [2] City of Bombay Improvement Act, 1898, the following sub-section shall be substituted, namely :—

"(*4*) On the expiration of the lease the building and the land forming the site thereof shall vest absolutely in His Majesty."

Amendment of section 4 of the Bombay Motor-vehicles Act, 1904.

[3] **24.** In section 4, sub-section (*3*), of the Bombay Motor-vehicles Act, 1904, for the words "the total amount" the words "the balance, after all expenses incurred in administering this Act in the City of Bombay have been defrayed" shall be substituted.

SCHEDULE U.

[*See section 62, sub-section (1).*]

[*Vol. III of this Code.*]

SCHEDULE V.

(*See section 89A.*)

[*Vol. III of this Code.*]

BOMBAY ACT No. I OF 1908[4].

[*1st September, 1908.*]

An Act to amend the Government Occupants (Sind) Act, 1899.

WHEREAS it is expedient to amend the Government Occupants (Sind) Act, 1899, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Government Occupants (Sind) Amendment Act, 1908.

Bom. Act III of 1899.

Substitution of new sections for sections 5 and 6.

2. For sections 5 and 6 of the [5] Government Occupants (Sind) Act, 1899, hereinafter called "the said Act," the following sections shall be substituted, namely :—

[*Supra.*]

[1] Section 40 of Bom. Act 4 of 1898 has since been substituted by s. 13 of Bom. Act I of 1913, Vol. V of this Code.

[2] *Supra.*

[3] This section has been virtually repealed as the Bombay Motor-vehicles Act, 1904, was repealed by Act 8 of 1914.

[4] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1908, Pt. VII, p. 2 ; and for Proceedings in Council, *see ibid*, 1908, Pt. VII, p. 81.

[5] *Supra.*

Amendment of section 7.

3. In section 7 of the said Act,

(*a*) for the words "entry in any such register" the words "such sanad or endorsement thereon" shall be substituted;

(*b*) for the word "entry,"- where it occurs for the second time, the words "sanad or endorsement thereon" shall be substituted;

(*c*) for the words "prescribed in the statement prefixed to such register" the words "on which the occupancy has been granted under sections 5 and 6" shall be substituted.

Repeal of portion of section 10.

4. In section 10 of the said Act, the concluding sentence is hereby repealed.

Saving of validity of past grants of occupancies.

5. Any occupancy heretofore granted by the Collector, which expressly purports, or may be reasonably held to have been intended, to have been granted in pursuance of the said Act, shall be valid and deemed to have been granted under that Act, as amended by the foregoing sections of this Act.

BOMBAY ACT No. II OF 1908.[1]

[*4th December, 1908.*]

An Act further to amend the City of Bombay Improvement Act, 1898.

WHEREAS it is expedient further to amend the [2] City of Bombay Improvement Act, 1898, in manner hereinafter appearing; Bom. Act IV of 1898.

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [3] Indian Councils Act, 1892, has been obtained to the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the City of Bombay Improvement (Amendment) Act, 1908. Bom. Act IV of 1898.

2. In clause (*l*) of section 47 of the [2] City of Bombay Improvement Act, 1898, hereinafter called "the said Act," for the latter part commencing with the words "and clause (*b*)," the following shall be substituted, namely:—

[*Supra.*]

Substitution of new section for section 50.

3. For section 50 of the said Act, the following section shall be substituted, namely:—

[*Supra.*]

Retrospective effect of sections 2 and 3.

4. The Amendments to the said Act contained in sections 2 and 3 shall be deemed to have been made and to have effect from the date of the commencement of the said Act.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1908, Pt. VII, p. 164, and for Proceedings in Council *see ibid*, p. 182.

[2] *Supra.*

[3] *See* now the Government of India Act, 1915 (5 and 6 Geo. 5, Ch. 61).